

IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF VERMONT

MISTY BLANCHETTE PORTER, M.D.,)
)
 Plaintiff,)
)
 vs.)
) CASE NO. 2:17-cv-194
 DARTMOUTH-HITCHCOCK MEDICAL)
 CENTER, DARTMOUTH-HITCHCOCK)
 CLINIC, MARY HITCHCOCK)
 MEMORIAL HOSPITAL, and)
 DARTMOUTH-HITCHCOCK HEALTH,)
)
 Defendants.) Deliberations/Verdict
 - - - - -)

Continuation of trial held on Thursday,
April 10, 2025, at 8:30 a.m., Burlington, Vermont,
before Honorable Kevin J. Doyle, Magistrate Judge.

Clerk of Court: Emerson F. Howe

Sarah M. Bentley, CCR-B-1745
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* * *

P R O C E E D I N G S

(The following is held in open court on April 10, 2025, at 8:25 a.m.)

THE CLERK: Your Honor, the matter before the court is Case No. 2:17-cv-194, Misty Blanchette Porter vs. Dartmouth-Hitchcock.

Present on behalf of the plaintiff are Attorneys Jeffrey Vitt, Eric Jones, and Sarah Nunan.

Present on behalf of defendants are Attorneys Tristram Coffin, Morgan McDonald, and Donald Schroeder.

We're here for a jury trial.

THE COURT: Okay. Good morning.

Okay, so we are here to address the note received towards the very end of the day yesterday. This has since been marked as Court Exhibit E-4, Jury Note 3.

I'll just read into the record what the note itself says again.

It says: We would like to request the testimony/transcript of the following: One, Dr. Herrick; two, Dr. Merrens; three, Dr. Porter; four, Dr. DeMars.

1 So before kind of beginning a discussion
2 on this I just want to note the 2nd Circuit's
3 law on this particular question. I am going to
4 cite to the parties United States vs. Escotto,
5 E-S-C-O-T-T-O. That citation is 121 at 3rd 81.

6 And in relevant part, the 2nd Circuit
7 says, Although we recognize that the decision to
8 permit or deny testimony requested by a jury
9 during deliberations is within the broad
10 discretion of the trial court, we have also
11 instructed that a trial court's response to any
12 particular request should be guided by
13 consideration of the juror's need to review the
14 evidence before reaching a verdict assessed
15 against the difficulty in locating the specific
16 testimony requested, the possibility of undue
17 emphasis on any portion of the testimony, and
18 the possibility of undue delay in the trial. We
19 have also stated a clear preference for
20 read-backs whenever they are requested by a
21 deliberating jury.

22 So those are kind of the guiding
23 principals this morning.

24 So let me just explain to you my
25 understanding of the factual landscape in terms

1 of where transcripts are with the court
2 reporters.

3 So, as you know, we have had three court
4 reporters over the course of the trial. The two
5 who reported the testimony of these particular
6 witnesses were Jan Marie Glaze, that was the
7 first court reporter that we had, and Sunni
8 Donath was here for the remaining witnesses.

9 So Ms. Donath recorded the -- transcribed
10 the testimony for Dr. Merrens, Dr. Herrick, and
11 Dr. DeMars. I am advised that Ms. Donath has
12 certified copies of the transcripts for each of
13 those witnesses now. So certified copies.

14 Ms. Glaze transcribed the testimony for
15 Dr. Porter over March 25th, March 26th, and
16 March 27th. I am advised that Ms. Glaze only
17 has a rough cut of the testimony of Dr. Porter
18 at this time.

19 The deputy clerk asked Ms. Glaze this
20 morning when she could have a certified copy
21 prepared for Dr. Porter, and she advised
22 best-case scenario by the end of the day today,
23 possibly in the morning.

24 In addition to certified copies of the
25 transcript, there's also a redaction issue

1 relevant here because those transcripts do have
2 contents of the bench conferences in the case.

3 So Mr. Howe has spoken with Ms. Donath,
4 who is in the process right now of doing the
5 redactions of her certified copies of the bench
6 conferences. The same request would be made of
7 Ms. Glaze as she prepares a certified copy of
8 her transcripts; to redact out the same
9 information.

10 In my view it is only fair to have
11 certified copies of the testimony of each of the
12 witnesses. And so my plan would be then to
13 generate transcripts.

14 This same case that I cited to you
15 earlier also deals with the possibility of
16 providing trial transcripts to a jury in lieu of
17 a read-back, particularly in a case where the
18 anticipated read-back is going to be fairly
19 lengthy, and that I think would be the case
20 here.

21 Given that there are four witnesses over
22 several days, it seems, considering these
23 factors, to make the most sense to generate
24 trial transcripts and allow those to be made
25 available to the jury for their review.

1 The 2nd Circuit says if you are going to
2 do that, though, the Court should issue a
3 cautionary instruction to the jury to make sure
4 that they understand that -- the notion that
5 they should be considering all the evidence in
6 the case without placing any undue emphasis on
7 any particular piece of evidence.

8 I would also propose then that copies of
9 each of those transcripts be provided to each
10 juror so that they also can see the language
11 themselves as opposed to relying potentially on
12 the reading or maybe even misreading of someone
13 in the jury room of the relevant testimony.

14 So as a practical matter, given that we
15 don't expect a certified transcript until the
16 end of the day today, that leads to the next
17 question then of what do we direct the jury; to
18 suspend its deliberations for today until we can
19 get all of the transcripts in place to be
20 provided to the jury?

21 I thought about the idea of somehow
22 attempting to ascertain whether they can
23 continue to deliberate in the absence of these
24 particular transcripts. I'm kind of reluctant
25 to do that because this note came in yesterday

1 about, and I think everyone probably agrees, are
2 kind of central witnesses in the case. So I'm
3 thinking at this time I would tell them that
4 we're going to wait until we get the
5 transcripts, and then we can resume.

6 So that's all I had to say. I'm happy to
7 hear from counsel on that proposal.

8 Mr. Jones?

9 MR. JONES: Thank you, your Honor.
10 Frankly, there was a time last night when I
11 think I was in line with your proposal, but on
12 further reflection I do think, I guess the -- I
13 understand that the 2nd Circuit, particularly
14 the Escotto case grants the Court wide
15 discretion of kind of the best way to proceed.

16 I do think, particularly here, the volume
17 that we're talking about; we're talking about
18 there's hundreds of pages and the jury kind of
19 having unsupervised access to pour over it, I
20 think that does create a risk of undue attention
21 being applied to certain pieces of evidence as
22 opposed to the evidence at a whole.

23 And, also, I am concerned about the undue
24 delay factor here. We are now talking about --
25 we're looking at a whole day being taken off so

1 we can get these transcripts together. I think
2 that creates a concern.

3 I would propose that the Court consider
4 something closer to the preferred practice of
5 reading, where we let the jury know that they
6 can be provided testimony but if they can
7 identify a statement, an issue, a subject
8 matter, then they can come back in in open court
9 and have that particular piece read back to
10 them.

11 What we don't know right now is what's
12 driving their request. Maybe we don't need to
13 know, but it may be that there's a much more
14 tailored, much more surgical, timesaving
15 solution here that may be -- if the jury was
16 presented with that option, might end up in a
17 more efficient process.

18 We would propose telling the jury at this
19 time we're not inclined to give you the full
20 transcripts, but we can read back specific
21 testimony that they need.

22 THE COURT: Okay.

23 Defendants' position?

24 MR. SCHROEDER: Thank you, your Honor. I
25 think, you know, obviously we have concerns

1 about slowing down the deliberation. I think it
2 seems as though the Court has taken steps to
3 perhaps expedite getting the transcripts.

4 There's 765 pages, as we understand it, of
5 transcript that they've currently asked for, and
6 our concern is the delay associated with that up
7 against various vacation schedules of some of
8 the jurors. Because we are aware of that.

9 And so a couple things. I think we've
10 got, obviously, the issue of undue delay, and we
11 believe that the jury should continue
12 deliberations; that we shouldn't suspend
13 deliberations at this point, and they should
14 continue to work through the issues.

15 I guess one of the major concerns I have,
16 your Honor, is this is not a bench trial, right?
17 We've been here for two weeks of jury trial
18 testimony, and they've all taken copious notes
19 throughout that testimony. And to do -- have
20 the transcripts, all of them printed and then
21 given to the jury, I would suggest that if the
22 Court is inclined to go that way, that I think
23 it's an all-or-nothing proposition.

24 Reading bits and pieces of it I don't
25 think is going to be appropriate, and I think if

1 the Court is going to the way of having
2 transcripts done, the concern is I wouldn't even
3 do that. I would have them continue their
4 deliberations to see if they can get through
5 this issue because the request is so broad at
6 this point. It's four different people. You're
7 dealing with Misty Porter over three days,
8 Merrens is over two, Leslie DeMars is over two,
9 and Daniel Herrick one.

10 I will let Mr. Herrick know that he's
11 been promoted to doctor since I don't believe he
12 has an M.D., but -- so that aside, my concern is
13 this is going to -- we shouldn't bog down the
14 deliberations regardless of where the Court goes
15 with this. I have concerns about printing
16 765 pages of transcript for each juror to mull
17 through.

18 We're inclined to allow them to continue.
19 We think they should continue. If they've got
20 specific requests that they want the Court to
21 consider, that may be another avenue, but right
22 now it seems extremely difficult and even in the
23 best-case scenario we would not be able to give
24 the transcripts to them until tomorrow.

25 But I don't think we should waste a day

1 of jury deliberations by suspending
2 deliberations right now. I think they should
3 continue to do the hard work they've been doing.

4 THE COURT: Yeah, I think the difficulty
5 is knowing whether this particular request has
6 come up because this is where they are, and my
7 attempting to tell them to continue to
8 deliberate -- just so I'm clear, so your
9 proposal is keep deliberating, you can get the
10 transcripts when they're available?

11 Or keep deliberating and maybe you'll
12 determine that you don't need them in the end?

13 I don't know what --

14 MR. SCHROEDER: Well, I think given the
15 state of where we are right now and what the
16 request is, I think at a minimum they should
17 continue to deliberate. I don't think there's
18 any basis to suspend. Because that goes against
19 Escotto and the act of undue delay and concern
20 about how long -- well, it's just the
21 machinations. We're already in our third day,
22 right? It's not even the start, and they're
23 asking for four different people.

24 And I think the concern we have is that
25 when you look at what the standard is, the

1 possibility of undue emphasis on any portion of
2 the record, the possibility of any undue delay,
3 those are all the factors that the Court
4 considers.

5 At a minimum we should do this on two
6 parallel tracts, at a minimum. So I would not
7 suspend. We are not in favor of suspending
8 deliberations today. I don't think that would
9 be -- in light of the fact that a number of
10 jurors -- because we're butting up against, as
11 my wife reminded me, Easter next week and the
12 fact that that lines up with school vacations.

13 Now, I don't have any kids in school
14 anymore, but I do know that a number of the
15 jurors have vacation scheduled next week. So to
16 the extent that the Court was considering
17 suspending and/or delaying their consideration
18 of the evidence, I just think we're going to be
19 in a very difficult position next week if
20 that -- if we delay things.

21 I think they should continue
22 deliberations at a minimum, and then if the
23 Court -- I don't know what the timing is on the
24 certified records. It sounds like either late
25 today or --

1 THE COURT: For one of them -- all of
2 them is Donath's transcripts, which is for
3 Dr. Merrens, Mr. Herrick, and Dr. DeMars, those
4 are certified now and ready, and the redactions
5 are in the process, which I'm hearing could be
6 done this morning.

7 With respect to Dr. Porter's testimony,
8 that is in rough form now. So that would be by
9 the end of the day.

10 MR. SCHROEDER: Right. And Mr. Herrick I
11 don't think anybody had until 10:54 p.m. last
12 night, so just so everybody understands where we
13 were yesterday. We wouldn't have been in a
14 position to be there.

15 But set aside all that, I think the jury
16 should continue to deliberate. I think if
17 there's a narrow request that comes out perhaps
18 that's helpful, but I think to the extent that
19 the transcripts are going to go back to the
20 Court, we would certainly want a strong limiting
21 instruction -- and we can certainly draft one in
22 the interim -- regarding not taking things out
23 of context, assessing the character and
24 credibility of the witnesses.

25 Obviously the judge -- if this was a

1 bench trial, you would certainly have the
2 transcripts and then you would deliberate, but
3 this is not a bench trial. This is a jury
4 trial. We've been here two weeks. It's not two
5 months, and I can certainly --

6 THE COURT: What does that go to? You're
7 saying --

8 MR. SCHROEDER: I don't want to delay
9 things.

10 THE COURT: Okay. That they should get
11 what they're asking for anyway?

12 I know it hasn't been a two-month trial,
13 it's not a bench trial, but they're asking for
14 it, right?

15 So I wonder if we might be able to do
16 here, potentially, there might be some agreement
17 about seeing if we can determine whether the
18 jury has a more narrow focus as to what they're
19 looking for. That might obviate all of the
20 inefficiencies that would come about by
21 generating transcripts for everyone.

22 Mr. Jones?

23 MR. JONES: That was my proposal. One
24 thing I just wanted to add, I think it would be
25 highly prejudicial if the jury got the defense

1 witness transcripts without Ms. Porter's so we
2 have to wait until tomorrow. I don't think we
3 can give them piecemeal.

4 And I am very concerned about the undue
5 delay. I think the parties are in agreement on
6 that concern.

7 So I think it may be best to see if we
8 can have the jury give us a more tailored --
9 ask, and it may be that reading more surgical,
10 surgically defined portions would satisfy their
11 concern.

12 THE COURT: Okay. Now, if they narrow
13 their request as to Dr. Porter's testimony, that
14 would still be working from a rough cut as
15 compared to a certified copy as to the other
16 witnesses. So that's an issue.

17 MR. SCHROEDER: I think your Honor, two
18 things. One, they should continue
19 deliberations; and, two, if during those
20 deliberations they can determine whether there's
21 a narrower request, then they should do so and
22 present it to the Court.

23 In terms of giving the transcripts all at
24 once, then we would do that all at once, I guess
25 tomorrow, but I do not believe we should slow

1 down negotiations at this point.

2 I don't think we should slow down
3 negotiations in the interim while the court
4 reporters are doing their work to get those
5 transcripts in a form that's acceptable for
6 distribution to the jurors.

7 I want to be clear. I don't think it's
8 necessary for them to have the entire
9 transcripts. I think I would want them to
10 continue to deliberate, but I understand the
11 Court's obviously broad discretion in this
12 regard.

13 My fall-back position, if the Court is
14 going that way in terms of having the full
15 transcripts, I still don't want to delay their
16 deliberations in the interim.

17 THE COURT: Mr. Jones, you are in
18 agreement with that; that deliberations should
19 continue?

20 MR. JONES: Generally, yes.

21 I'm going to propose, maybe you can
22 simply inform the jury that part of the
23 difficulty in complying with their request today
24 is that it's going to take time to get certified
25 copies. If they knew that this would result in

1 a day's delay, that might be information useful
2 to them, particularly in light of
3 Mr. Schroeder's observation that some of these
4 people have plans next week.

5 It might help them assess their need for
6 hearing testimony, if they knew that it would
7 cause a delay in the deliberations.

8 THE COURT: Just so I'm clear, so is the
9 proposal then that I bring the jury back in,
10 obviously acknowledge that we received their
11 request, tell them that as written the request
12 is fairly broad; that it will take time to
13 generate those transcripts, direct them to
14 continue with their deliberations, and then
15 somehow get from them a view as to whether what
16 they need can be narrowed?

17 I wonder if I do that through just kind
18 of a note to them, or I can tell them and then
19 they can communicate with us through a note.

20 I don't know that the foreperson is going
21 to be prepared, if I say that today, this
22 morning, to tell me exactly what they need. So
23 perhaps I raise that issue with the jury and
24 then ask them to communicate with the Court.

25 MR. COFFIN: I think some dialogue with

1 the jury, if agreeable to the other side, is a
2 good way to kind of get a sense. I would
3 suggest non-leading, open-ended questions, but
4 letting them know the practical situation that
5 it would take some time to get this and ask, you
6 know, what, if anything, could be done to narrow
7 their request.

8 And just a little bit of a discussion
9 with the jury may give us some ideas of where
10 they are and may help guide kind of how the
11 Court does with this.

12 THE COURT: I would be very reluctant to
13 engage in that colloquy with the jury. It gets
14 too involved. That's fraught.

15 I can explain to them, as I said, the
16 situation, and then I think they should
17 communicate with us, again by note, with respect
18 to whether they think it can be narrowed.

19 But again, for the record, so both sides
20 are in agreement that deliberations should
21 continue at this point?

22 Mr. Jones?

23 MR. JONES: Yes.

24 THE COURT: Mr. Schroeder?

25 MR. SCHROEDER: Absolutely.

1 THE COURT: All right, so then that's
2 what I'll do. I'll bring them in, tell them
3 that they can continue deliberating, and see if
4 they can communicate with us the possibility of
5 narrowing the request of their testimony.

6 If they can't and the note comes back
7 basically the same as what it is; that they're
8 asking broadly for all of the testimony --

9 MR. SCHROEDER: I think it's appropriate,
10 Judge, for you to say that it could take until
11 late today or tomorrow to comply with the
12 request as it is. That's a fact. I don't have
13 a problem with communicating that fact to them
14 because it's true.

15 And because otherwise we're going to be
16 in this back-and-forth, and they need to
17 understand the logistical difficulties of what
18 they're asking, I think.

19 MR. JONES: We agree with that. They
20 should know that what they're asking is going to
21 take until tomorrow morning.

22 THE COURT: Right. I should probably say
23 to them continue deliberations if you feel you
24 can, right?

25 I mean, at this point.

1 MR. SCHROEDER: Well, there's certainly
2 case law, Judge, where the parties can be
3 directed to continue deliberations. We've got
4 that case law.

5 THE COURT: When there's been a request
6 for a read-back of testimony and say continue
7 with your deliberations awaiting information
8 you've requested --

9 MR. SCHROEDER: Yes.

10 THE COURT: -- as opposed to we're at an
11 impasse-type cases?

12 MR. SCHROEDER: Correct. Correct.

13 THE COURT: Okay. Anything else then at
14 this time?

15 MR. JONES: Nothing further.

16 THE COURT: All right. Be back shortly.

17 (The judge left the courtroom at
18 8:57 a.m., and a brief recess was taken.)

19 THE CLERK: All rise for the jury.

20 (The jury entered the courtroom at
21 9:13 a.m.)

22 THE CLERK: Please be seated.

23 THE COURT: Okay. Good morning. I just
24 wanted to let you know, as I think I commented
25 on yesterday, I received your note from the end

1 of the day in which you requested the
2 testimony/transcript of the following witnesses'
3 testimony: Dr. Herrick, Dr. Merrens,
4 Dr. Porter, and Dr. DeMars.

5 So I certainly want to provide you the
6 information that you feel you need as you
7 continue to do your job. I just wanted to let
8 you know, as a practical consequence if I were
9 to get for you the full transcripts of every one
10 of those witnesses, it will take probably until
11 the end of the day today, possibly tomorrow
12 morning to generate that.

13 So that said, we are prepared to provide
14 you the information that you need, but if you
15 can, if you are able to narrow your request as
16 to what precisely, you know, within reason, you
17 are interested in receiving from that, that
18 would make it a little more manageable to
19 generate that for you. Again, if you can.

20 I would ask that you please do that in
21 writing, as you have been doing up until now.

22 And in the meantime I'll direct you to
23 continue your deliberations, if you can, without
24 this information, and I'll wait to hear from you
25 as to the potential narrowing of the request.

1 Okay?

2 All right. Thank you.

3 THE CLERK: All rise for the jury.

4 (The jury left the courtroom at
5 9:15 a.m.)

6 THE CLERK: Please be seated.

7 THE COURT: I'll just make a quick
8 correction.

9 Earlier I referred to Jury Note 3 by
10 exhibit number. I said it was E-4. I'm advised
11 that was "EH" for Emerson Howe. So he left off
12 the left stick on the "H" so it looks like a
13 four to me. So it's not marked as EH. It is
14 just Jury Note 3.

15 Okay. Anything else that we should take
16 up at this time?

17 MR. SCHROEDER: None for the defense,
18 your Honor.

19 THE COURT: Plaintiff?

20 MR. JONES: Nothing, your Honor.

21 (The judge left the courtroom, and the
22 jury continued their deliberations at 9:16 a.m.)

23 (The following was held at 10:42 a.m. in
24 open court without the jury present.)

25 THE CLERK: Please be seated.

1 THE COURT: Okay, so we have received
2 another note. I'll read that to you now.

3 It reads: We would like to hold off on
4 any requests for transcripts. We will reach out
5 if we need a specific portion of transcript.
6 Thank you. Signed the foreperson.

7 Okay, so I interpret this as a withdrawal
8 of their request for any testimony or
9 transcripts at this time. I won't bring the
10 jury in. I think this is their communication as
11 to where they're at, so we'll leave it at that.

12 Okay?

13 MR. SCHROEDER: Thank you, your Honor.

14 MR. JONES: Thank you, your Honor.

15 THE CLERK: All rise.

16 (The judge left the bench at 10:43 a.m.)

17 (The following was held in open court on
18 April 10, 2025, at 4:05 p.m. without the jury
19 present.)

20 THE COURT: Okay, as I think you know, we
21 have received a note from the jury. That note
22 reads: We have reached a verdict.

23 So I'll ask for the jury to be brought in
24 at this time.

25 THE CLERK: All rise for the jury.

1 Verdict:

2 (The jury entered the courtroom at
3 4:06 p.m.)

4 THE CLERK: Please be seated.

5 THE COURT: Okay, at this time I'll ask
6 the foreperson, has the jury reached a verdict?

7 FOREPERSON LAFONTAINE: We have.

8 THE COURT: Okay. Then I'll ask the
9 deputy clerk to receive the verdict form.

10 (The verdict form was handed to the
11 deputy clerk by the foreperson and then handed
12 to the Court.)

13 THE COURT: Okay, the verdict form
14 appears to be in order. I will now ask the
15 deputy clerk to read the verdict.

16 THE CLERK: The matter of Civil Action
17 No. 17-cv-194, Misty Blanchette Porter vs.
18 Dartmouth-Hitchcock Medical Center, et al.

19 The jury finds as follows:

20 One. Violation of New Hampshire
21 Whistleblowers' Protection Act.

22 Do you find by a preponderance of the
23 evidence that Dartmouth Health terminated
24 Dr. Porter's employment and failed to reassign
25 her to another position at Dartmouth Health in

1 violation of New Hampshire Whistleblowers'
2 Protection Act? No.

3 Violation of Americans With Disabilities
4 Act.

5 Do you find by a preponderance of the
6 evidence that Dartmouth Health terminated
7 Dr. Porter's employment because of her
8 disability in violation of the Americans With
9 Disabilities Act? No.

10 B. Do you find by a preponderance of the
11 evidence that Dartmouth Health failed to make a
12 reasonable accommodation for Dr. Porter by
13 reassigning her to another department instead of
14 terminating her employment in violation of the
15 Americans With Disabilities Act? No.

16 C. Do you find by a preponderance of the
17 evidence that Dartmouth Health retaliated
18 against Dr. Porter by terminating her employment
19 in violation of the Americans With Disability
20 Act? No.

21 Three. Rehabilitation Act Claim.

22 A. Do you find by a preponderance of the
23 evidence that Dartmouth Health terminated
24 Dr. Porter's employment because of her
25 disability, in violation of the Rehabilitation

1 Act? No.

2 B. Do you find by a preponderance of the
3 evidence that Dartmouth Health failed to make a
4 reasonable accommodation for Dr. Porter by
5 reassigning her to another department instead of
6 terminating her employment, in violation of the
7 Rehabilitation Act? No.

8 C. Do you find by a preponderance of the
9 evidence that Dartmouth Health retaliated
10 against Dr. Porter by terminating her
11 employment, in violation of the Rehabilitation
12 Act? No.

13 Four. Disability discrimination claims
14 under New Hampshire state law.

15 A. Do you find by a preponderance of the
16 evidence that Dartmouth Health terminated
17 Dr. Porter's employment because of her
18 disability, in violation of the New Hampshire
19 law against discrimination? No.

20 E. Do you find by a preponderance of the
21 evidence that Dartmouth Health failed to make a
22 reasonable accommodation for Dr. Porter by
23 terminating her employment instead of
24 reassigning her, in violation of the New
25 Hampshire law against discrimination? No.

1 C. Do you find by a preponderance of the
2 evidence that Dartmouth Health retaliated
3 against Dr. Porter by terminating her
4 employment, in violation of the New Hampshire
5 law against discrimination? No.

6 Five. Disability discrimination claims
7 under Vermont state law.

8 A. Do you find by a preponderance of the
9 evidence that Dr. Porter's disability was a
10 motivating factor in Dartmouth Health's decision
11 to terminate Dr. Porter's employment in
12 violation of the Vermont Fair Employment
13 Practices Act? Yes.

14 Do you find by a preponderance of the
15 evidence that Dartmouth Health failed to make a
16 reasonable accommodation for Dr. Porter by
17 terminating her employment instead of
18 reassigning her to another department, in
19 violation of the Vermont Fair Employment
20 Practices Act? No.

21 C. Do you find by a preponderance of the
22 evidence that Dartmouth Health retaliated
23 against Dr. Porter by terminating her
24 employment, in violation of Vermont Fair
25 Employment Practices Act? No.

1 Six. Wrongful discharge claim under New
2 Hampshire state law.

3 Do you find by a preponderance of the
4 evidence that Dartmouth Health's decision to
5 terminate Dr. Porter's employment constituted
6 wrongful discharge in violation of New Hampshire
7 state law? No.

8 Damages.

9 One. Economic damages. If you checked
10 yes to any of the questions in Parts 1 through 6
11 above, do you find that Dr. Porter has proven by
12 a preponderance of the evidence that she is
13 entitled to economic damages, such as lost
14 income and expenses? Yes.

15 If you checked yes, state below the
16 amount that is awarded in economic damages.
17 \$1,000,000.

18 Two. Noneconomic damages.

19 If you checked yes to any of the
20 questions in Parts 1, 2, 4, 5, or 6 above, do
21 you find that Dr. Porter has proven by a
22 preponderance of the evidence that she is
23 entitled to noneconomic damages, such as lost
24 enjoyment of life, mental anguish, or pain and
25 suffering? Yes.

1 If you answered yes to the question
2 above, state below the amount that is to be
3 awarded noneconomic damages. \$125,000.

4 Punitive damages.

5 If you checked yes to any of the
6 questions in Parts 2, violation of the ADA, or
7 5, disability and discrimination claims under
8 Vermont state law, do you find that Dr. Porter
9 has proven by a preponderance of the evidence
10 that she is entitled to punitive damages because
11 of Dartmouth Health's wrongful conduct,
12 outrageously reprehensible, and Dartmouth Health
13 acted with malice? No.

14 Dated in Burlington, the District of
15 Vermont, this 10th day of April, 2025. Signed
16 by the jury foreperson.

17 THE COURT: Okay. At this time would
18 either party like the jury to be polled?

19 MR. JONES: Not the plaintiff.

20 THE COURT: Defendants?

21 MR. SCHROEDER: No, your Honor.

22 THE COURT: Okay. All right, so then
23 judgment will be entered in accordance with this
24 verdict.

25 Members of the jury, this concludes your

1 jury service. I want to thank you for your
2 attention and your diligence in this case. So
3 you are free to leave at this time.

4 If you wish, you can discuss the case and
5 your jury verdict with anyone you'd like, but
6 you are under no obligation to speak to anyone
7 if that is your preference.

8 I am going to be coming back to the jury
9 room in just a moment to personally thank you
10 so, if you would, just wait for a moment in the
11 jury room. I'm going to be speaking to the
12 lawyers, and I'll be with you.

13 Okay.

14 THE CLERK: All rise for the jury.

15 (The jury left the courtroom at
16 4:15 p.m.)

17 THE CLERK: Please be seated.

18 THE COURT: Okay. Is there anything that
19 we should take up at this time?

20 Plaintiff?

21 MR. JONES: Nothing for us.

22 THE COURT: Okay. Defendants?

23 MR. SCHROEDER: Just in terms of
24 post-trial motions, your Honor, if they happen,
25 what is your pleasure in terms of that?

1 THE COURT: Well, how much time would you
2 like?

3 I think there is a rule, it's about
4 30 days. I think 28 days is what the rule
5 provides.

6 MR. SCHROEDER: That's appropriate.

7 THE COURT: So the 28 days for the filing
8 of the post-trial motions?

9 MR. SCHROEDER: Thank you.

10 THE COURT: Anything else?

11 All right. Well, it really was an
12 excellently tried case, I will say to both
13 sides. And it was a pleasure to be here with
14 you doing this case.

15 I wish you-all a good evening. For those
16 of you who are leaving here to go home, safe
17 travels.

18 MR. SCHROEDER: Thank you, your Honor.

19 (Proceedings concluded at 4:16 p.m.)

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C E R T I F I C A T E

I, SARAH M. BENTLEY, Certified Court Reporter, Registered Professional Reporter, and Notary Public, do hereby certify that the said proceedings were taken in machine shorthand by me at the time and place aforesaid and were thereafter reduced to typewritten form under my direction, Pages 1 - 34; that the foregoing is a true, complete, and correct transcript of said proceedings.

I further certify that I am not employed by, related to, nor counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature and seal this 31st day of May, 2025.

/s/ Sarah M. Bentley, RPR

SARAH M. BENTLEY, CCR-B-1745